

ALLEGED VIOLATION: Between February 11 and March 26, 1948, while the drug was being held for sale after shipment in interstate commerce, the defendant caused a number of capsules of the drug to be repacked into bottles and to be sold to various persons without a prescription, which acts of the defendant resulted in the capsules being misbranded. The repackaged capsules were labeled "Katz Drug Co * * * Kansas City, Missouri No. 317745 Dr. McCracken One at bed time for sleep if needed."

NATURE OF CHARGE: Misbranding, Section 502 (b) (2), the repackaged drug failed to bear a label containing an accurate statement of the quantity of the contents; Section 502 (e) (1), the label failed to bear the common or usual name of the drug, "pentobarbital sodium"; Section 502 (d), the repackaged drug was for use by man and contained a chemical derivative of barbituric acid, which derivative had been found, by the Administrator of the Federal Security Agency, after investigation, to be and by regulations designated as habit forming, and the label failed to bear the name and quantity or proportion of such derivative and in juxtaposition therewith, the statement "Warning—May be habit forming"; and, Section 502 (f) (1), the labeling of the repackaged drug failed to bear adequate directions for use since the directions for use on the labeling "One at bed time for sleep if needed" were not adequate directions.

DISPOSITION: November 7, 1949. A plea of nolo contendere having been entered, the court imposed a fine of \$375.

2913. Misbranding of Fruitonya, Neutraton, Hematon No. 1, Hematon No. 2, Phospho B Complex, Ribo Ton, and Java Ton. U. S. v. 144 Bottles, etc. (F. D. C. No. 24730. Sample Nos. 2029-K, 2030-K, 2032-K to 2036-K, incl.)

LABEL FILED: April 15, 1948, District of Columbia; libel amended October 12, 1948.

ALLEGED SHIPMENT: By the Miracle Food Co., from Philadelphia, Pa.

PRODUCT: 144 1-quart bottles of *Fruitonya*; 24 13-ounce cans of *Neutraton*; 24 16-ounce bottles of *Hematon No. 1*; 24 75-tablet boxes of *Hematon No. 2*; 24 50-capsule boxes of *Phospho B Complex*; 24 100-tablet boxes of *Ribo Ton*; and 24 4-ounce cans of *Java Ton* at Washington, D. C.

The products were advertised for various diseases, symptoms, and conditions at lectures given by J. D. Levine at Washington, D. C., on April 5, 6, and 12, 1948.

LABEL, IN PART: "Fruitonya * * * Contains invert sugar, True fruit extracts, Reinforced with Natural flavors & fruit acids"; "Neutraton * * * Contains Lactose, Skimmed Milk, Dicalcium phosphate, Irradiated Milk, Whey Powder"; "Hematon No. 1 * * * Three teaspoonfuls provide: Vitamin A . . . 5,000 U. S. P. Units, Vitamin D . . . 1,200 U. S. P. Units, Vitamin B₁ (Thiamin) . . . 1 mg., Vitamin B₂ (G) (Riboflavin) . . . ½ mg., Niacinamide . . . 10 mg., Green Iron & Ammon. Citrate . . . 3 grs., Iron . . . 30 mgs."; "Hematon No. 2 * * * Each tablet Contains: 2,500 U. S. P. Units Vitamin A, 250 U. S. P. Units Vitamin D, ½ Mgm. Colloidal Copper, 5 Mgm. Iron"; "Phospho B Complex * * * Contains: Vitamin B₁ (Thiamin Chloride) 500 U. S. P. Units, Vitamin B₂ (Riboflavin) 2,000 Micrograms, Vitamin B₆ (Pyridoxine) 30 Micrograms, Calcium Pantothenate 250 Micrograms, Niacin Amide 10,000 Micrograms, Lectithin (Inert Amt.) 10,000 Micrograms"; "Ribo Ton * * * A Tablet Contains: Carrot Powder, Parsley Powder, Spinach Powder, 500

Gammas Natural Riboflavin, Dextrose"; and "Java Ton Contains Soluble Coffee Lactose."

NATURE OF CHARGE: Misbranding, Section 502 (f) (1), the labeling of the articles failed to bear adequate directions for use for the following diseases, symptoms, and conditions for which the articles were prescribed, recommended, and suggested in advertising, sponsored by and on behalf of the manufacturer, packer, and distributor of the articles: *Fruitonya*—Insomnia due to nervousness, colds, too long menstrual flow, bad liver, and catarrh; *Neutraton*—poison glands, a condition of pus in the eyes, vomiting of babies, and liver conditions; *Hematon No. 1*—Anemia in thin people; *Hematon No. 2*—anemia in stout people and for blood building; *Phospho B Complex*—bad heart condition, poor memory, and low blood pressure; *Ribo Ton*—inflamed or tired eyes; and *Java Ton*—goiter.

Further misbranding, *Hematon No. 1*, Section 502 (a), the designation "Hematon No. 1" and the label statement "5 Vitamin Malt Tonic With Iron" were false and misleading since the article was not a blood tonic and did not possess tonic properties; and, *Hematon No. 2*, Section 502 (a), the designation "Hematon No. 2" was misleading since it created the impression that the article was a blood tonic, whereas it was not.

The *Fruitonya* was alleged also to be further misbranded under the provisions of the law applicable to foods as reported in notices of judgment on foods.

DISPOSITION: On February 24, 1949, the Miracle Food Co., claimant, filed a request for answers to certain interrogatories. The interrogatories were answered, and on November 17, 1949, the claimant having consented to the entry of a decree (and the court having found that the products were misbranded as alleged in the libel, except that no finding was made with respect to the allegation that the name "Fruitonya" was misleading within the meaning of Section 403 (a)), judgment of condemnation was entered and the court ordered that the products be destroyed.

2914. Misbranding of Catalyn, Cataplex A, Cataplex C, Cataplex A and C, Cataplex E, Cataplex F, Cataplex G, and Minaplex. U. S. v. 24 Packages, etc. (F. D. C. No. 27266. Sample Nos. 9548-K, 9549-K, 9551-K to 9556-K, incl.)

LIBEL FILED: June 22, 1949, Southern District of New York.

ALLEGED SHIPMENT: Between the approximate dates of October 31, 1947, and March 23, 1949, from Milwaukee, Wis.

PRODUCT: 24 packages, consisting of 6 bottles, of *Catalyn*; 3 packages of *Cataplex A*; 1 bottle of *Cataplex C*; 3 bottles of *Cataplex A and C*; 2 packages of *Cataplex E*; 3 packages of *Cataplex F*; 4 bottles of *Cataplex G*; and 2 packages of *Minaplex*, at New York, N. Y., stored to the account of D. H. Urbanik, together with 25 printed forms reading, in part, "Deficiency Examination Questionnaire" and a mimeographed booklet entitled "Youth and Vitality Diet Class Notes," which accompanied the articles.

LABEL IN PART: (Bottle) "Catalyn V-P 710 * * * Concentrates From Alfalfa, Carrot, Beef and Fish Liver Lipoids, Yeast, Wheat Germ, Rice Bran, Liver, Mushroom, Green Peas (Whole Plant), Biologically Processed Corn * * * 120 Tablets"; (package) "Cataplex A Vitamin A Complex * * * Concentrates of Vitamin Factors from Alfalfa, Carrot, Beef Kidney, and Fish Liver Lipoids * * * 120 Tablets"; (bottle) "Cataplex C Vitamin C * * * Contains 100 U. S. P. Units of Vitamin C per Tablet with Naturally